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*TM*

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/996,249	12/22/97	SAMS	R 197-0216

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PM82/1102

EXAMINER

BINDA, G

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 11/02/99

*7*

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**08/996,249**

Applicant(s)

**Sams et al**

Examiner  
**Greg Binda**

Group Art Unit  
**3629**



☒ Responsive to communication(s) filed on Aug 30, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-5 and 10-12 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-5 and 10-12 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Oct 29, 1999 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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1. Please note, the instant application has been assigned to an examiner different from that of the previous Office action.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

*Drawings*

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the drawings must show a means for angularly retaining the bearing to the trunnion as recited in claims 3 & 10 or the feature must be canceled from the claims. No new matter should be entered.

*Claim Rejections - 35 U.S.C. § 112*

4. Claims 3-5 & 10-12 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification does not enable one skilled in the art to make the claimed invention with a means for angularly retaining the bearing on the trunnion because no description of such means is included in the description of the disclosed invention. Furthermore, the specification does not enable one skilled in the art to combine the disclosed invention with the prior art means for angularly retaining the bearing on the trunnion (nominally described on p. <sup>2</sup>3, lines 3-13) without destroying (as explained below) the disclosed invention.

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*Claim Rejections - 35 U.S.C. § 101*

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 2-5 & 10-12 are rejected under 35 U.S.C. 101 because the disclosed invention is inoperative and therefore lacks utility. The invention is inoperative because a non-machined outer surface on the trunnion (see claims 2 & 10) will prevent relative rotation between the trunnion and the inner bearing race. Without an allowance for such rotation there is no means for the tripod to accommodate angular deflection. Note, the only means for accommodating angular deflection disclosed by applicant, is that of the admitted prior art in Fig. 2. The means for accommodating angular deflection in the admitted prior art requires that the engagement between the inner race of the bearing and the trunnion allows relative rotation. Thus, in order for the claimed invention to be operative, the outer surface of the trunnion must be machined.

*Claim Rejections - 35 U.S.C. § 102*

7. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Van Dest, US 5,505,660. Figs. 1-4 show a tripod bearing assembly comprising; a spider 14 having a trunnion 16; a bearing assembly 18, 32, 38 on trunnion 16; and a means 26, 28 for axially retaining bearing

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assembly on spider 12. The bearing assembly 18, 32, 38 is shown comprising: an inner race 18; an outer race 38; and a plurality of needle rollers 32 interposed between the inner and outer races 18, 38.

*Response to Arguments*

8. Applicant's arguments filed Aug. 30, 1999 have been fully considered but they are not persuasive.

a. Applicant argues that the specification includes a means for angularly retaining the bearing on the trunnion. This is so, applicant argues, because the prior art is describe on p. 2, lines 3-13 and in Fig. 2 as having such a means. This argument is unpersuasive because claim 3 is, presumably, directed to applicant's invention, not the admitted prior art.

b. Applicant argues that the specification includes a means for angularly retaining the bearing on the trunnion because the disclosed invention is describe on p. 5, lines 3-5 as having such a means. This argument is unpersuasive because the disclosed invention is not describe on p. 5, lines 3-5 as having such a means. On p. 5, lines 3-5 applicant states, "The tripod thus accommodates any angular deflection of the joint". However, the preceding description in no way describes how "angular deflection" (as shown in Fig. 2) between applicant's tripod 12 and applicant's bearing 40 is provided in the structure of the disclosed invention. In p. 4, line 29 through p.5, line 3 applicant merely describes the means for making outer race 48 rotatable on

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trunnion 20. Outer race rotation about the axis of a trunnion is clearly not the same concept as “angular deflection” shown in Fig. 2.

c. Applicant argues that Van Dest does not anticipate claim 1 because Van Dest’s bearing assembly 18, 32, 38 is not press fit onto trunnion 16. This is so, applicant argues, because Van Dest discloses an engagement between inner race 18 and trunnion 16 which allows relative rotation, while applicant discloses an engagement between inner race 42 and trunnion 20 which prevents relative rotation. In response to this argument, it is noted that the feature upon which applicant relies, (engagement between the inner race and the trunnion which prevents relative rotation) is not recited in the rejected claim. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### *Conclusion*

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Binda whose telephone number is (703) 305-2869. The examiner can normally be reached Tuesday through Friday from 8:00 am to 5:30 pm. The examiner can also be reached on alternate Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne, can be reached on (703) 308-1159. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 306-4195, 305-3597 and 305-7687.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.



**Greg Binda**  
**Patent Examiner**



**Lynne H. Browne**  
**Supervisory Patent Examiner**  
**Group 3600**